

Elizabeth L. Schilken (SBN 241231)  
schilkene@ballardspahr.com  
**BALLARD SPAHR LLP**  
2029 Century Park East, Suite 1400  
Los Angeles, CA 90067-2915  
Tel: 424.204.4400 / Fax: 424.204.4350

*[Additional Counsel on Signature Page]*

*Attorneys for Defendant Sinclair  
Television of Fresno, LLC*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CALEB L. MCGILLVARY,

Plaintiff,

v.

NETFLIX, *et al.*,

Defendants.

Case No. 2:23-cv-01195-JLS-SK

Hon. Josephine L. Staton

**Defendant Sinclair Television of  
Fresno, LLC's Application to Appear  
Remotely at Hearing on Motion to  
Dismiss**

Hearing Date: May 10, 2024  
Hearing Time: 10:30 a.m.

Pursuant to the Court's procedures regarding hearings, Defendant Sinclair Television of Fresno, LLC, incorrectly sued as KMPH Fox News ("KMPH") respectfully requests leave for its counsel Thomas B. Sullivan to appear remotely at the hearing scheduled to be held on May 10, 2024 at 10:30 am on, among other pending motions, KMPH's Motion to Dismiss the Second Amended Complaint of Plaintiff Caleb McGillvary ("Motion").

KMPH recognizes that under this Court's procedures hearings are to be conducted in person absent extraordinary circumstances. KMPH respectfully submits that such circumstances exist here. Plaintiff, who is proceeding *pro se*, is

1 currently incarcerated in the state of New Jersey. If he is able to participate in the  
2 May 10 hearing at all, he will be required to do so remotely. KMPH's lead counsel,  
3 who lives in New Jersey and works in New York, would be required to leave the  
4 East Coast on May 9, stay overnight, and then fly back following the May 10  
5 conference to participate in person in a hearing at which the Plaintiff will appear, if  
6 at all, via telephone or Zoom. Sullivan Decl. ¶ 5. Counsel for two other Defendants  
7 have previously applied for permission to appear remotely. ECF Nos. 181, 184.

8 Moreover, it is not clear that Plaintiff will meaningfully oppose the Motion at  
9 the hearing. Plaintiff's deadline to file an opposition to the Motion was April 19,  
10 2024. *See* February 28, 2024, Order (ECF No. 153) at 2. Sullivan Decl. ¶ 3. No  
11 opposition has been filed.<sup>1</sup> *Id.* Plaintiff has instead moved for leave to file a *fourth*  
12 version of his complaint, though no hearing date was requested on that motion.

13 Accordingly, KMPH respectfully requests that its counsel be allowed to  
14 participate in the May 10, 2024 hearing by Zoom or telephone.

15  
16 [signature block on next page]  
17  
18  
19  
20  
21  
22  
23  
24

25 \_\_\_\_\_  
26 <sup>1</sup> KMPH recognizes that the Court's receipt of Plaintiff's submissions has often been  
27 delayed by more than two weeks from mailing. *See, e.g.*, ECF No. 174. Therefore, it  
28 is possible that an opposition is still forthcoming. However, no such papers have  
been filed to date.

Ballard Spahr LLP  
2029 Century Park East, Suite 1400  
Los Angeles, CA 90067-2915  
Telephone: 424.204.4400

1  
2 Dated: April 29, 2024

**BALLARD SPAHR LLP**

3 By: /s/Matthew S.L. Cate

4 Elizabeth L. Schilken

schilkene@ballardspahr.com

5 2029 Century Park East, Suite 1400

6 Los Angeles, CA 90067-2915

7 Tel: 424.204.4400 / Fax: 424.204.4350

8 Chad R. Bowman (*pro hac vice*)

bowmanchad@ballardspahr.com

9 Matthew S.L. Cate (SBN 295546)

10 catem@ballardspahr.com

11 1909 K Street, NW, 12<sup>th</sup> Floor

Washington, DC 20006-1157

12 Tel: 202.661.2200 / Fax: 202.661.2299

13 Thomas B. Sullivan (*pro hac vice*)

14 sullivan@ballardspahr.com

15 1675 Broadway, 19th Floor

New York, NY 10019

16 Tel: 212.850.6139 / Fax: 212.223.1942

17 *Attorneys for Defendant*

18 *Sinclair Television of Fresno, LLC*

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of 18 years, and not a  
3 party to this action. My business address is Ballard Spahr LLP, 1909 K Street, NW,  
4 12th Floor, Washington, D.C., 20006-1157.

5 On April 29, 2024, I electronically filed the foregoing **Defendant Sinclair**  
6 **Television of Fresno, LLC's Application to Appear Remotely at Hearing on**  
7 **Motion to Dismiss** with the Court through its CM/ECF system, which will provide  
8 notice to counsel of record in this case, and I caused the same to be served via U.S.  
9 Mail to:

10 Caleb L. McGillvary  
11 #1222665/SBI #102317G  
12 New Jersey State Prison  
13 P.O. Box 861  
14 Trenton, NJ 08625

15 Dated: April 29, 2024

16 /s/ Matthew S.L. Cate  
17 Matthew S.L. Cate  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Ballard Spahr LLP  
2029 Century Park East, Suite 1400  
Los Angeles, CA 90067-2915  
Telephone: 424.204.4400